



Commonwealth of Massachusetts
Department of Conservation and Recreation

Massachusetts Watershed Protection Act (WsPA)
M.G.L. ch. 92, § 107A

Watershed Protection Regulations
350 CMR 11.00

WsPA Form 1
Request For
Watershed Determination of Applicability

INSTRUCTIONS

USE OF THIS FORM

This form may be used to request an Applicability Decision under the Watershed Protection Regulations as to whether or not:

- 1) your property has been improperly included on the List of Affected Parcels in the Watershed Protection Regulations (e.g., Location Determination);
- or -
- 2) your structure, use or proposed activity qualifies for an exemption under the Watershed Protection Regulations (e.g., Exemption Determination);
- or -
- 3) your structure, use or proposed activity is not specifically prohibited by the Watershed Protection Act (e.g., Status Determination).

To obtain further information, please refer to the 1) "Guidance Document for Making Applications Under the Watershed Protection Act"; 2) Watershed Protection Act, Chapter 36 of the Acts of 1992; or 3) the Watershed Protection Regulations, 350 CMR 11.00. These documents are available from either office listed below or the Division's website at www.mass.gov/dcr/waterSupply/watershed/wsapa.htm. The Applicability Decision is a recordable document.

FILING OF THIS FORM

If your property is located in **Boylston, Holden, Leominster, Paxton, Princeton, Sterling, West Boylston, or Worcester**, then send your form and all attachments to:

DCR, Division of Water Supply Protection
Office of Watershed Management, Wachusett Reservoir
Attn: Environmental Planning
180 Beaman St.
West Boylston, MA 01583

Tel.: (508) 792-7806
Fax: (508) 835-6018

If your property is located in: **Athol, Barre, Hardwick, Hubbardston, New Salem, Oakham, Orange, Petersham, Phillipston, Rutland, Shutesbury, Templeton, Westminster, or Wendell**, then send your form and all attachments to:

DCR, Division of Water Supply Protection
Office of Watershed Management, Quabbin Reservoir
Attn: Environmental Planning
485 Ware Rd.
Belchertown, MA 01007

Tel.: (413) 323-6921 ext 501
Fax: (413) 784-1751



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INSTRUCTIONS (Continued)

AFTER FILING

The Division will issue a written decision within 60 days of the Date of Submission as defined in 350 CMR 11.03.

If the Division has failed to issue a written decision within 60 days of the Date of Submission (e.g., when the application is determined to be complete), as defined in 350 CMR 11.03, the Division shall be deemed to have:

1) concurred with the Land Surveyor's determination, if this is a request for a Location Determination;

- or -

2) determined that the proposed Structure, Use and/or Activity is exempt, if this is a request for an Exemption Determination;

- or -

3) determined that the proposed Structure, Use and/or Activity is permitted, if this is a Status Determination.

If you wish to appeal the Applicability Decision, you must file a Notice of Claim for an Adjudicatory Proceeding with the Commissioner and the Division within **twenty-one** days of issuance of the decision. See 801 CMR 1.00 et seq. for applicable procedures.

CHECKLIST

Before you send your request to the Division, please check to be sure that you have enclosed:

- ✓ A copy of the property deed or property tax bill to show ownership.
- ✓ A complete description of your proposal related to any structure, use and/or activity.
- ✓ Written permission from the owner, if the applicant is not the owner of record.
- ✓ A completed and signed request WsPA Form 1.

OTHER REQUIREMENTS

Please note that the granting of a Applicability Decision from the provisions of the Watershed Protection Act does not relieve the applicant of the duty to obtain any other required state, federal, or local permits or variances. Where applicable it will still be necessary to obtain wetlands permits or variances, Title 5 variances, 401 water quality certifications, storm water permits (including the development of a Storm Water Pollution Prevention Plan), and any local zoning actions.

END OF INSTRUCTIONS



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If the property is in the Wachusett Reservoir watershed (see Instructions) mail to:

DCR, Division of Water Supply Protection,
Office of Watershed Management, Wachusett Reservoir
Attn: Environmental Planning
180 Beaman St.
West Boylston, MA 01583

For DCR office use only

DCR WsPA File #: _____
Initial Intake Date: _____
Submission Date (complete): _____
Lot Identifier: _____

If the property is in the Quabbin Reservoir or Ware River watersheds (see Instructions) mail to:

DCR, Division of Water Supply Protection,
Office of Watershed Management, Quabbin Reservoir
Attn: Environmental Planning
485 Ware Rd.
Belchertown, MA 01007

I. OWNER/APPLICANT/LOT IDENTIFICATION

Please fill in all parts of this section as appropriate

• **Ia. OWNER OF RECORD**

Owner's Mailing Address:

Name: _____

Address: _____

Telephone Number: _____

• **Ib. APPLICANT/REPRESENTATIVE**

Applicant's / Representative's Mailing Address:

Name: _____

Address: _____

Telephone Number: _____

• **Ic. LOT IDENTIFICATION**

Lot Address and Location:

Street Address: _____ Town: _____

Town Assessor's Sheet Number: _____ Town Assessor's Lot Number: _____

County: _____ Registry of Deeds' Book Number: _____

Deed Book Page Number: _____ Certificate of Title Number: _____

Name of Reservoir or Tributary: _____

• **Id. IDENTIFICATION OF PROPOSAL OR EXISTING STATUS OF LOT**
Description of Proposed Structure, Use and/or Activity

Please include information regarding all activities proposed for the project and the existing status of the Lot including: the change in use; extent of expansion (e.g., number of bedrooms and square footage); any land alteration, or increase in impervious area. Please be specific with respect to any activities on the list found in the Watershed Protection Regulations, 350 CMR 11.04(3).

Attach any other information where appropriate.

If NOT Applicable, please explain below:

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II. ACTION REQUESTED

Please refer to the Watershed Protection Regulations for the full provisions of the Watershed Protection Act. Also see "Guidance Document for Making Applications Under the Watershed Protection Act" for additional information.

Please Complete either II a, II b, or II c

● **IIa. LOCATION DETERMINATION**

Check if applicable

I assert that the subject lot identified in Section Ic is:

_____ Correctly within an area of jurisdiction as identified in Section 11.04(1). However, the proposed activity on the lot is located outside of an area under the jurisdiction of the Act.

_____ Correctly included on the List of Affected Parcels. Proposed activities are within the areas regulated by the Act and must be in conformance with the restrictions outlined in the Act.

_____ Improperly included on the List of Affected Parcels produced by the Division of Water Supply Protection, Office of Watershed Management (e.g., man-made farm pond used for irrigation). Attached is the written determination of a Land Surveyor registered with the board of registration of professional engineers and land surveyors of the Commonwealth, which states that my property is not located within an area regulated by the Watershed Protection Act.

Name of Land Surveyor: _____

Registration Number of Land Surveyor: _____

_____ Within the Watershed but not in an area subject to jurisdiction as identified in 350 CMR 11.04

_____ Located outside the Watershed because:

_____ Other (please explain):

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• **Iib. EXEMPTION DETERMINATION**

If applicable, please check exemption type below.

I assert that this proposal is exempt from the provisions of the Watershed Protection Act's regulations because it is:

_____ **Uses, Structures or Facilities in Existence - 11.05(1).** A structure or facility lawfully in existence or for which all permits were obtained prior to July 1, 1992 (Include copies of permits or approvals.).

_____ **Reconstruction, Extension or Structural Change - 11.05(2).** A reconstruction, extension, or structural change that does not constitute a substantial change or enlargement and will not degrade the quality of the water in the Watershed.

_____ **Lot in Existence - 11.05(3).** Construction of a single-family dwelling on a Lot existing prior to July 1, 1992, or division of an owner-occupied Lot existing prior to July 1, 1992, into one additional Lot for a single-family dwelling, with no alterations within regulated areas wherever possible. Include copy of or reference to subdivision plan.

_____ **Construction - Sewer System - 11.05(4).** Construction of a dwelling with direct connection to a sewer system which existed prior to July 1, 1992.

Land for Agricultural Use:

_____ **Conversion of Land - 11.05(7).** Conversion of land to agricultural use under a USDA and MDC approved plan in consultation with MA Department of Food and Agriculture.

_____ **Maintenance or Improvement - Agricultural - 11.05(9).** Normal maintenance or improvement of land in Agricultural Use that does not impair the quality of water in the Watershed.

_____ **Changes in Agricultural Crops Produced - 11.05(14).** Changes in agricultural crops produced.

_____ **Agricultural Technologies - 11.05(15).** Use of new or existing agricultural technologies that do not impair the quality of water in the Watershed more than present agricultural technologies that such new or existing technologies replace.

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• **Iib. EXEMPTION DETERMINATION (continued)**

Land for Public Roadways and Utilities:

_____ **Maintenance of Public Roadways in Existence - 11.05(8).** Maintenance, repair, or replacement or reconstruction of public roadways and railroad track and bed to preserve or restore current serviceability, provided the design is substantially the functional equivalent (replacement), and that design plans and specifications are provided to the Division *prior to the commencement of work*.

_____ **Construction of Public Highways - 11.05(10).** Construction of a public highway, railroad track or rail bed or related construction that does not materially impair the quality of water in the Watershed. *Requires Secretary of Environmental Affairs to make determination (Please attach).*

_____ **Maintenance of Public Utilities - 11.05(11).** Maintenance, repair, or expansion of lawfully located structure or facilities used to provide public utility services to the public, that does not materially impair the quality of water in the Watershed.

_____ **Maintenance of Public Utilities – Wetlands - 11.05(12).** Maintenance, repair, or expansion of lawfully located structure or facilities used to provide public utility services to the public in Bordering Vegetated Wetlands, that does not materially impair water quality in the Watershed.

_____ **Clean up or Prevention of Releases - 11.05(13).** Undertaking of temporary operations to clean up, prevent or mitigate releases of Hazardous Material or Waste.

_____ **Municipal Sewage Treatment Facility or Water System - 11.05(16).** A new municipal Sewage Treatment Facility or water system in compliance with existing regulations and standards that will not adversely impact water quality.

_____ **Other (please explain):**

• **Iic. NOT PROHIBITED DETERMINATION**

Check if applicable

_____ I assert that this proposal is located within an area of jurisdiction, but is not prohibited by the specific restrictions of the WsPA including the density limitations, impervious area thresholds, or septic leach field requirements.

_____ **Other (please explain):**

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III. SUPPORTING MATERIALS

Studies, Surveys, and Additional Materials:

Please attach and list any materials, including the Land Surveyor's determination and plans for the proposed activity, if any, that are included in support of this request.

_____ Land Surveyor's Determination	_____ Soil Conditions Map	
_____ Town Assessor's Map	_____ Topographical Plan (e.g., U.S.G.S.)	
_____ Site Plan/Septic Design	_____ Water Quality Analysis	
Signed by: _____		
Stamped by: _____		
_____ Deed	_____ Owner's Permission Statement	_____ Other

Additional materials may be necessary in order for the Division to make a decision. For instance, a water quality analysis may be necessary to support the assertion that the proposal does not impair the quality of water in the Watershed. The Division will contact you if additional information will be required.

IV. CERTIFICATION

(Please read statement below and 350 CMR 11.09 before signing)

Other Requirements: All relevant provisions of the Wetlands Protection Act, Rivers Protection Act, Title 5, NPDES Phase II Storm Water Discharge permit program, and other state, federal, and local laws and regulations remain in full force. The applicant should address these issues with the local Conservation Commission, Board of Health, and other appropriate municipal, federal, and state agencies.

I certify that the information provided on this form and in all attachments is correct and accurate to the best of my knowledge. I understand that the Division of Water Supply Protection, Office of Watershed Management staff may, at reasonable times, inspect my property for the purposes of confirming information given here and for determining the impact of this proposal on water quality.

Signature: _____ Date: _____
(Owner of Record)

Signature: _____ Date: _____
(Applicant, if different than Owner of Record)

Note: *If the owner's signature is not included, then a document must be attached that certifies that the applicant has the owner's permission to file this Request on his or her behalf.*